IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TENNESSEE EASTERN DIVISION

KAREN WRIGHT and)	
GILEY WRIGHT,)	
)	
Plaintiffs,)	
)	
VS.)	No. 04-1313-T-An
)	
WALGREEN CO.,)	
)	
Defendant.)	

ORDER DENYING PLAINTIFFS' MOTION TO STRIKE DEFENDANT'S REPLY

On March 24, 2006, the court granted Defendant's motion for permission to reply to Plaintiffs' response to Defendant's motion for partial summary judgment on the issue of punitive damages. Defendant filed its reply on April 4, 2006. Plaintiffs have now filed a motion to strike that reply on the ground that Defendant has raised arguments not contained in the motion for partial summary judgment.

Plaintiffs' motion is not authorized by the Federal Rules of Civil Procedure. Although Rule 12(f) of the Federal Rules does refer to a "motion to strike," the plain language of the rule authorizes only the striking of certain defenses or other matters from "pleadings," and the list of "pleadings" contemplated by the rules clearly does not include the document sought to be stricken in this case. <u>See</u> Fed. R. Civ. P. 12(f) ("Motion to Strike"), 7 ("Pleadings Allowed").

In deciding a motion for partial summary judgment, the court is not limited to the

arguments presented by the parties. The court must decide whether Tennessee law prohibits

an award of punitive damages based on the facts in this case. Plaintiffs may be assured that

the court will consider the facts and the applicable law before reaching its decision,

regardless of the parties' briefings.

For these reasons, Plaintiffs' motion to strike is DENIED.

IT IS SO ORDERED.

s/ James D. Todd

JAMES D. TODD

UNITED STATES DISTRICT JUDGE